

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

PHILIP MORRIS, INCORPORATED, *et al.*,

Defendants.

Civil Action No. 99-CV-2496 (GK)

**PHILIP MORRIS INCORPORATED'S RESPONSES TO  
PLAINTIFF'S FIRST REQUESTS FOR ADMISSION TO ALL DEFENDANTS**

Defendant Philip Morris Incorporated ("Philip Morris") hereby responds to Plaintiff's First Requests for Admission to all Defendants ("Requests") as follows:

**GENERAL OBJECTIONS**

A. Philip Morris objects to the "Definitions" and "Instructions" to these Requests to the extent they attempt to impose obligations on Philip Morris other than those imposed or authorized by the Federal Rules of Civil Procedure and/or any applicable order of this Court.

B. Philip Morris objects to the phrase "environmental tobacco smoke" as defined in Paragraph 7 of the "Definitions" on the grounds that it is vague, ambiguous, and overly broad. Philip Morris further states that for purposes of responding to these Requests, it defines "environmental tobacco smoke" to mean a highly diluted, aged, dynamic, complex, and ever-changing mixture of sidestream smoke and exhaled mainstream smoke.

C. Philip Morris objects to the phrases "safer cigarette," "less hazardous cigarette," and "alternative cigarette" as used in these Requests, and as defined in Paragraph 8 of the "Definitions," on the grounds that they are vague and ambiguous and fail to describe the facts

information known or readily obtainable by Philip Morris is insufficient to enable it to either admit or deny this Request.

**REQUEST NO. 218:** Admit that environmental tobacco smoke ("ETS") causes disease in some people.

**RESPONSE:** Philip Morris objects to the term "disease" as used in this Request on the grounds that it is vague, ambiguous, undefined and overly broad. Subject to and without waiving its specific and General Objections, Philip Morris admits that public health officials have concluded that ETS causes certain diseases, including lung cancer and heart disease, in non-smoking adults. Philip Morris believes that ETS exposure has not been shown to cause the development of lung cancer or heart disease in non-smokers. Philip Morris further states that although it does not believe that exposure to ETS has been shown to cause the development of these diseases, Philip Morris recognizes that under certain exposures, ETS can cause irritative responses such as a runny nose and tearing eyes and that exposure to ETS has been reported to trigger or exacerbate asthmatic responses in a small subset of sensitive asthmatics. Philip Morris states that claims that ETS causes the development of "disease" are based primarily on epidemiologic studies, and such studies generally report weak associations, often have no measures of actual exposure to ETS, and have other serious methodological problems, such as uncontrolled bias and confounding in some cases. These studies have failed to persuasively establish a cause and effect relationship between reported exposure to ETS and the development of "disease."

Further responding, Philip Morris states that with respect to children, a number of studies have reported increased relative risks for children, especially young ones, living in smoking households of contracting conditions such as cough, wheeze, otitis media (middle ear infection) and lower respiratory infection. Philip Morris also admits that there are studies that report an association between parental smoking and Sudden Infant Death Syndrome.

Except as expressly admitted, Philip Morris denies this Request.

**REQUEST NO. 219:** Admit that you have never admitted that ETS has caused disease in a particular person or a particular group of persons.

**RESPONSE:** Philip Morris objects to this Request on the grounds that it is argumentative, compound and fails to separately set forth each matter of which an admission is sought. Philip Morris also objects to the term "disease" as used in this Request on the grounds that it is vague, ambiguous, undefined and overly broad. Philip Morris also objects to the phrase "particular group of persons" on the grounds that it is vague, ambiguous and overly broad.

**REQUEST NO. 228:** Admit that Covington & Burling had extensive control over the CIAR grant process with respect to the selection of consultants who would receive grants from this organization.

**RESPONSE:** Philip Morris objects to this Request on the grounds that the phrase "extensive control" is vague and ambiguous. Philip Morris also objects to this Request on the ground that it is argumentative. Subject to and without waiving its specific and General Objections, Philip Morris admits that Covington & Burling served as counsel for CIAR, however, its attorneys did not sit on the CIAR Board of Directors and had no vote regarding who received CIAR funding. Except as expressly admitted, Philip Morris denies this Request.

**REQUEST NO. 229:** Admit that you funded CIAR Special Projects.

**RESPONSE:** Philip Morris objects to this Request on the grounds that the phrase "CIAR Special Projects" is vague and ambiguous. Subject to and without waiving its specific and General Objections, Philip Morris admits that it provided funding to CIAR to support basic and applied research on all aspects of indoor air quality, including ETS. Except as expressly admitted, Philip Morris denies this Request.

**REQUEST NO. 232:** Admit that you retained HBI as a consultant to perform evaluations of the indoor air quality of commercial office buildings.

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**FILE**

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	)	
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	)	
PHILIP MORRIS, INCORPORATED,	)	
et al.,	)	
	)	
Defendants.	)	

**PHILIP MORRIS INCORPORATED'S RESPONSES TO  
PLAINTIFF'S SPECIFIC INTERROGATORIES TO DEFENDANTS  
PHILIP MORRIS, INC. AND PHILIP MORRIS COMPANIES, INC.**

Defendant Philip Morris Incorporated ("Philip Morris") responds to Plaintiff's Specific Interrogatories to Defendants Philip Morris, Inc. and Philip Morris Companies, Inc. ("Interrogatories") as follows:

**PRELIMINARY STATEMENT**

The most comprehensive and efficient way for Philip Morris to respond to certain of Plaintiff's Interrogatories is to direct Plaintiff to its document website www.pmdocs.com, the contents of which were provided to Plaintiff in the form of data tapes, or to the document depository in Minneapolis, Minnesota, known as the "Minnesota Depository," which was established by Court Order dated June 15, 1995 in The State of Minnesota (Humphrey) v. Philip Morris Incorporated, et al., Case No. C1-94-8565 (Ramsey County, Minnesota) ("the Minnesota Litigation").

accepted definition of a "safer" cigarette or any consensus as to whether a "safer" cigarette exists or is technologically possible or commercially feasible.

**INTERROGATORY NO. 16:** Identify all employees meaningfully involved in any research on the actual or potential effects on tobacco consumption of cigarette advertising, marketing or promotion.

**RESPONSE:** Philip Morris objects to this Interrogatory on the grounds set forth in its Preliminary Statement and its General Objections, including but not limited to, General Objection F. Philip Morris also objects to Plaintiff's use of the phrase "tobacco consumption" as overly broad to the extent it is not limited to cigarette smoking. Subject to and without waiving its General Objections, Philip Morris states that the listed individuals have significant knowledge regarding cigarette advertising and marketing:

Suzanne LeVan  
Vice President, Marlboro  
Philip Morris Incorporated

Nancy Brennan Lund  
Senior Vice President, Marketing  
Philip Morris Incorporated

**INTERROGATORY NO. 17:** For the years 1950 to the present, describe your position with respect to whether environmental tobacco smoke (ETS) causes disease, including any changes in that position over time, identify all company research or studies relating to such position, and identify employees meaningfully involved with such position or change in position.

**RESPONSE:** Philip Morris objects to this Interrogatory on the grounds set forth in its Preliminary Statement and its General Objections, including but not limited to, General Objections D, F and P. Subject to and without waiving its General Objections, Philip Morris states that its position has been and remains that environmental tobacco smoke ("ETS") has not been shown to cause the development of disease. Claims that environmental tobacco smoke causes the development of disease are based primarily on epidemiologic studies, and such studies report generally weak associations, often have no measures of actual exposure to ETS,

and have methodological problems, such as uncontrolled bias and confounding in some cases, that cannot be discounted. These studies have failed to persuasively establish a cause and effect relationship between reported exposure to ETS and the development of disease in non-smokers.

Further responding, Philip Morris states that Ellen Merlo and Michael Szymanczyk have significant knowledge regarding Philip Morris' general position on smoking and health and that the following persons have significant knowledge regarding Philip Morris' position on scientific issues on smoking and health:

Robert DuPuis (1950s) (deceased)

Helmut Wakeham (1960s, 1970s) (deceased)

Robert Seligman (1970s) (deceased)

Max Hausermann (1980s)

Kenneth Houghton (1980s - present)

Cathy Ellis (1990s)

Richard Carchman (1990s-present)

Richard Solana (1990s - present)

Edward Sanders (1990s - present)

Roger Walk (1990s - present)

Urs Nyffeler (1990s - present)

Further responding, Philip Morris states that non-privileged documents containing information responsive to this Interrogatory are subsumed within the population of documents that, through numerous sources, have been made available and/or are being produced in response to the CRFPs.

**INTERROGATORY NO. 18:** For the years 1950 to the present, describe your position with respect to whether smoking and/or nicotine is addictive, including any